

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

NATHAN YOUNG,

Defendant.

8:12CR24

ORDER

This matter is before the court on the defendant's Application to Proceed in District Court Without Prepaying Fees or Costs (Filing No. 64), Motion for Transcripts and Recordings (Filing No. 63), and Motion to Compel Disclosure of Grand Jury Minutes, All Material Subject to Discovery, and Brady Material (Filing No. 62). The plaintiff has not filed an appeal, but indicates in his motion that he intends to pursue a motion to vacate or set aside his sentence under [28 U.S.C. § 2255](#).

Under Rule 6(b) of the "Rules Governing Section 2255 Cases in the United States District Courts," a party requesting discovery must provide reasons for his requests and must specify any requested documents. Also, under [28 U.S.C. § 2250](#), if a petitioner is permitted to prosecute a petition for a writ of habeas corpus in forma pauperis, "the clerk of any court of the United States shall furnish to the petitioner without cost certified copies . . . the record . . . as may be required by order" [28 U.S.C. § 2250](#). The statute contemplates the filing of a motion for collateral review of a conviction before free copies of the record are furnished to the moving party. **See** [Chapman v. United States](#), 55 F.3d 390, 390-91 (8th Cir. 1995) (stating any request for a free transcript prior to the filing of a section 2255 motion is premature).

In this case, the court has reviewed the defendant's application to proceed in forma pauperis, for which he appears eligible. However, the defendant has not yet filed a writ or motion as contemplated by the statute. Accordingly, the court is not inclined to order copies of documents at government expense without a pending appeal, § 2255 motion, or some showing of need for the documents.

IT IS ORDERED:

1. The defendant's application to proceed in district court without prepaying fees or costs (Filing No. 64) is granted.
2. The defendant's motion for transcripts and recordings (Filing No. 63) is denied at this time, but may be reasserted after the filing of an appropriate § 2255 motion.
3. The defendant's Motion to Compel Disclosure of Grand Jury Minutes, All Material Subject to Discovery, and Brady Material (Filing No. 62) is denied at this time, but may be reasserted after the filing of an appropriate § 2255 motion.

Dated this 26th day of September, 2013.

BY THE COURT:

s/ Thomas D. Thalken
United States Magistrate Judge